THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21346 of 2006

O r d e r:

Assailing the enquiry proceedings initiated against the petitioner, in pursuance of the charge sheet as also the order of suspension dated 11.08.2006, he filed the present writ petition.

On 24.06.2006, the petitioner while conducting the bus on the route Pargi to Mumbai, a check was exercised, and the petitioner is said to have lodged a complaint against the checking officials with regard to cash shortage of Rs.1,200/-, pertaining to 12 tickets, to the Depot Manager on 29.06.2006. Thereafter, the respondents on the ground that the petitioner refused to do duty and went on sick leave for two days, issued the charge sheet and suspension order dated 11.08.2006. The petitioner submitted his explanation, but the petitioner states that the respondents without considering the explanation, ordered regular enquiry, and appointed one Shri T. Ramesh, Assistant Manager, Technical, Picket, who had earlier dealt with the case of missing tickets, as Enquiry Officer on 21.09.2006. The petitioner states that despite his attending for the enquiry on the day fixed, the Enquiry Officer was not present and no enquiry was conducted. Assailing the enquiry proceedings, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that as the petitioner lodged complaint against the checking officials with regard to cash shortage of Rs.1,200/- pertaining to 12 tickets, the respondents on the allegation that he refused to perform duty on 7.08.2006 and 08.08.2006, had issued charge sheet and placed him under

suspension vide orders dated 11.08.2006. He submits that Shri T. Ramesh, who is appointed as Enquiry Officer to enquire into the charges leveled against him, had earlier looked into the complaint made by him against the checking officials, and as such, there is every likelihood of he being biased against the petitioner, and prayed that the enquiry proceedings, be quashed and set aside. In support of his submission when there is likelihood of bias by the Enquiry Officer, the enquiry proceedings would be unfair, he placed reliance on the judgment of the Kerala High Court in

The Workmen, Madura Co. v. The Lab[1]. and of the apex Court in

G. Sarana v. Lucknow University[2]. He submitted that the petitioner

On the other hand, the learned Standing Counsel for the respondents-APSRTC submitted that the petitioner having signed the duty chart on 07.08.2006, refused to perform duty, and left the duty without obtaining permission, and due to refusal of the petitioner to perform duty, the respondents suffered loss, and the petitioner to cover up his mistake, has produced the sick certificate. As the explanation submitted by the petitioner was not convincing, the respondents ordered regular enquiry, and appointed the Enquiry Officer, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The contention of the petitioner that the merely because he lodged complaint against the checking officials with regard to shortage of Rs.1,200/- tickets, the respondents issued the impugned charge sheet and placed him under suspension, cannot be accepted, for the reason that the petitioner having signed the duty chart on 07.08.2006, is alleged to have refused to perform duty and left duty without

obtaining permission, and due to his refusal to perform duty, the respondents suffered loss, and to cover up his mistake, he produced sick certificate. Whether the petitioner signed the duty chart, whether he refused to perform duty and whether he really fell sick, which prevented him from performing duty, are all matters of enquiry, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, does not go into such questions, for they are matters for enquiry.

It is the contention of the petitioner that Shri T. Ramesh, Assistant Manager, who is appointed as Enquiry Officer, had earlier dealt with the complaint lodged by him against the checking officials, and apprehends bias. If the petitioner feels that the Enquiry Officer, appointed by the respondents, would be biased, then it is open for him to make a representation to the respondents to change the Enquiry Officer, and if any such representation is made, certainly the respondents would consider the same and pass appropriate order, but certainly on the ground that the Enquiry Officer, appointed by the respondents, would be bias to him, he cannot seek to quash the very enquiry proceedings.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 21st November, 2006.
KSR

[1] AIR 1966 KERALA 167

[2] AIR 1976 SC 2428